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N A R U C  
National Association of Regulatory Utility Commissioners

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February 19, 2003

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Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**RE: NARUC Opposition to Petition for Reconsideration filed by  
Verizon Companies in the FCC Proceedings captioned:**

***In the Matter of Implementation of the Telecommunications Act of  
1996; Telecommunications Carriers' Use of Customer Proprietary  
Network Information and Other Customer Information; Docket No. 96-  
175 ; Implementation of the Non-Accounting Safeguards of Sections  
271 and 272 of the Communications Act of 1993, as amended. Docket  
No. 96-149***

Dear Ms. Dortch:

Verizon filed a petition for Reconsideration of the Federal Communications Commission's (FCC) July 16, 2002 Order concerning its Customer Proprietary Network Information (CPNI) rules in the above captioned proceeding. In that July Order, the FCC determined when states adopt CPNI rules that are more restrictive than the FCC's rules, the agency will decline "to apply any presumption that such requirements would be vulnerable to preemption." (CPNI Order, Page 31, ¶. 70) Instead the FCC decided to exercise preemptive authority on a case-by-case basis. Verizon has asked the Commission to reconsider these findings. The National Association of Regulatory Commissioners (NARUC) respectfully requests that the Commission reject Verizon's request.

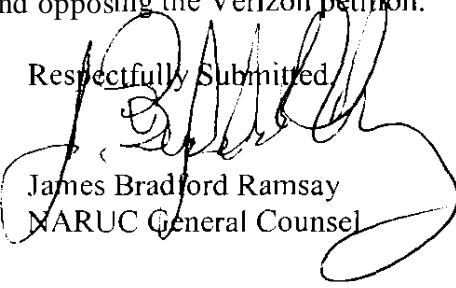
As the California Commission points out in their opposition, Verizon bases their petition on three arguments (1) that this preemption policy is contrary to Section 222 of the Telecommunications Act, (2) that it may be difficult to implement separate state rules, and (3) that this preemption policy infringes upon carriers' 1<sup>st</sup> amendment rights. None of the arguments have merit. While it may be that the FCC has the ability to preempt state CPNI rules, Verizon cannot point to any statutory language or court decision that requires the FCC to preempt the states as a matter of law. The second and third assertions are at best premature. Neither argument can be fully tested until the FCC has before it the issue of whether a given state rule should or should not be preempted.

As Verizon has made no new arguments, NARUC respectfully requests that the FCC deny Verizon's Petition for Reconsideration.

ENCLOSURE  
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NARUC requests any waivers needed to file this comment out-of-time.  
Alternatively, NARUC requests this be treated as a written *ex parte* letter supporting the California Opposition Comments and opposing the Verizon petition.

Respectfully Submitted,



James Bradford Ramsay  
NARUC General Counsel

cc: Christopher Libertelli, Office of Chairman Powell  
Dan Gonzalez, Office of Commissioner Martin  
Matthew Brill, Office of Commissioner Abernathy  
Jordan Goldstein, Office of Commissioner Copps  
Lisa Zaina, Office of Commissioner Adelstein  
William Maher, Chief, Wireline Competition Bureau